

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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ANTHONY D. COLLIER,

Case No. 14-CV-4249 (PAM/TNL)

Plaintiff,

v.

**REPORT AND RECOMMENDATION**

MINNESOTA DEPARTMENT OF  
CORRECTIONS; STILLWATER PRISON;  
and 3RD WATCH AGGRESSORS,  
BYSTANDERS AND ADMINISTRATORS,

Defendants.

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Plaintiff Anthony D. Collier, a Minnesota state prisoner, commenced this action by filing a complaint seeking relief for alleged violations of his constitutional rights. *See* ECF No. 1. Collier did not pay the required filing fee for this case, but instead filed an application seeking leave to proceed *in forma pauperis* (“IFP”). *See* ECF No. 2. In an order dated November 21, 2014, this Court ordered that Collier pay an initial partial filing fee of \$11.53, as required under 28 U.S.C. § 1915(b), within 20 days of the date of the order, failing which it would be recommended that this action be dismissed without prejudice for failure to prosecute. *See* Fed. R. Civ. P. 41(b).

That deadline has now passed, and Collier has not paid the required initial partial filing fee. Indeed, Collier has not communicated with the Court at all since the November 21 order. Accordingly, this Court now recommends, in accordance with its prior order, that this action be dismissed without prejudice under Rule 41(b) for failure to prosecute. *See Henderson v. Renaissance Grand Hotel*, 267 Fed. App’x 496, 497 (8th Cir. 2008) (per curiam) (“A district

court has discretion to dismiss an action under Rule 41(b) for a plaintiff's failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order.").

### **RECOMMENDATION**

Based upon the foregoing, and on all of the files, records, and proceedings herein, **IT IS HEREBY RECOMMENDED** that:

1. This action be **DISMISSED WITHOUT PREJUDICE** under Fed. R. Civ. P. 41(b) for failure to prosecute.
2. Plaintiff Anthony D. Collier's application to proceed *in forma pauperis* [ECF No. 2] be **DENIED AS MOOT**.

Dated: January 26, 2015

s/ Tony N. Leung  
Tony N. Leung  
United States Magistrate Judge

*Collier v. Minnesota Department of  
Corrections et al.*  
Case No. 14-cv-4249 (PAM/TNL)

### **NOTICE**

Pursuant to Local Rule 72.2(b), any party may object to this Report and Recommendation by filing with the Clerk of Court, and serving all parties by **February 26, 2015**, a writing that specifically identifies the portions of the Report to which objections are made and the bases for each objection. A party may respond to the objections within fourteen days of service thereof. Written submissions by any party shall comply with the applicable word limitations provided for in the Local Rules. Failure to comply with this procedure may operate as a forfeiture of the objecting party's right to seek review in the Court of Appeals. This Report and Recommendation does not constitute an order or judgment from the District Court, and it is therefore not directly appealable to the Eighth Circuit Court of Appeals.